

Health at the border: Federal court protects rights of immigrant kids

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A federal court has stopped the government from abandoning protections that children crossing the U.S. border have been guaranteed for more than a decade and it permanently blocked the government from applying, implementing or enforcing new regulations that physicians told the court would have made “barely tolerable” conditions at the Southern border “much worse.”

The Litigation Center of the American Medical Association and State Medical Societies joined more than 20 other organizations in an amicus brief in *Flores v. Barr* that urged the U.S. District Court for the Central District of California to do exactly what it did. The brief told the court that the Trump administration’s new rule was “contrary to the best interests of children.” It also said that the rule is “fundamentally inconsistent” with the Flores Settlement Agreement (FSA) in place since 1997, as well as “common concepts of basic humanity.”

The federal court said “the evidentiary record ... overwhelmingly shows that throughout several presidential administrations, the Agreement has been necessary, relevant and critical to the public interest in maintaining standards for the detention and release of minors arriving at the United States’ borders.” It further said that “defendants willingly negotiated and bound themselves to these standards for all minors in its custody, and no final regulation or changed circumstances yet merit termination of the [FSA].”

What was at stake?

The FSA, a binding contract and consent decree, was put in place to protect immigrant children from harm. It states that the government must treat “all [children] in its custody with dignity, respect and special concern for their particular vulnerability as [children].” It also says detained children must be:

- Put “in the least restrictive setting appropriate to the [child’s] age and special needs.”

- Released without unreasonable delay.

- Placed in a “licensed program” that is non-secure and “licensed by an appropriate state agency to provide residential, group or foster care services for dependent children.”

- Cared for in a licensed program that meets all enumerated standards, including that children are provided with appropriate medical care, educational services and living accommodations such as appropriate food, clothing and grooming items.

The new regulation from the Department of Homeland Security (DHS) and Department of Health and Human Services’ (HHS) would have stripped those rights and implemented rules that, as the AMA Litigation Center brief tells the court, would harm children physically and mentally in the long-term and short-term by:

- Eliminating the government’s duty to release accompanied children to family members in the community, resulting in children who would have otherwise been released being held in detention.

- Increasing the odds that a child would be indefinitely detained, or be released and separated from his or her accompanying parent who is still held in detention.

- Creating materially worse conditions for the children because the facilities would be self-licensed and accountable only to the government.

- Depriving immigrant children of their due process rights.

“Overwhelmingly, medical research shows that even a short amount of time in detention is seriously harmful to children, particularly those who have already experienced trauma in their home countries or during their journey to the United States,” the AMA Litigation Center brief tells the court. “Studies of detained immigrants have found negative physical and emotional symptoms among detained children, including anxiety, depression and post-traumatic stress disorder.”